



Maine Human Rights Commission
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INVESTIGATOR'S REPORT
PA11-0416

April 19, 2013

[REDACTED] [REDACTED]

v.

[REDACTED] [REDACTED]

I. The complaint:

The Complainant, who was a patient of the Respondent, alleges that she was subjected to a hostile environment (sexual comments and unwelcome touching) in public accommodations due to her sex.

II. Respondent's Answer:

The Respondent denies any discrimination occurred based upon the Complainant's sex and/or that he touched Complainant inappropriately or made any of the alleged inappropriate comments. Respondent also contended that, even if these allegations were true, the MHRA does not provide an action for hostile environment in public accommodations and/or that the claim is barred because the misconduct alleged falls under the exclusive provisions of the Maine Health Security Act.¹

III. Jurisdictional Data:

- 1) Date of alleged discrimination: 1/23/2011.
- 2) Date complaint filed with the Maine Human Rights Commission: 6/17/2011.
- 3) As a physician, Respondent [REDACTED] (hereinafter "[REDACTED]" is a place of public accommodation subject to the Maine Human Rights Act.
- 4) The case was investigated by thorough review of the written materials provided by the parties. Based on this review, this complaint has been identified for a brief Investigator's Report, which summarizes the allegations and denials in relationship to the applicable law but does not fully explore the factual issues presented. This preliminary investigation is believed to be sufficient to enable the Commissioners to make a finding of "reasonable grounds" or "no reasonable grounds" in this case.

¹ The Maine Health Security Act ("MHSA") provides certain procedural requirements that must be met in order to file a claim of professional negligence against a healthcare provider. Respondent requested dismissal of Complainant's MHRC complaint based upon their contention that her only cause of action for allegations of professional misconduct was under the MHSA. This request was denied by the MHRC's Executive Director.

- 5) The Complainant is represented by Attorney [REDACTED]. The Respondent is represented by Attorney [REDACTED].

IV. Development of Facts:

- 1) The parties and undisputed issues in this case are as follows:
 - a) Respondent [REDACTED] is a psychiatrist who, after practicing in other states for several years, became licensed to practice in Maine in 2007. He opened an office in Brunswick, Maine.
 - b) On or about October 2009, the Complainant began individual monthly counseling sessions with the Respondent, in addition to monthly joint counseling sessions that included Complainant's husband.
 - c) The Complainant ceased receiving treatment from the Respondent in February 2011.

Complainant's MHRC Complaint

- 2) (Complainant, hereinafter "C") In October 2009, I began seeing [REDACTED] for both marital and individual counseling, once a month for each. Soon after I began counseling [REDACTED] began sexually harassing me. At the end of our individual counseling sessions, he hugged me, with some hugs lasting between 30-60 seconds. On several occasions, I broke off the hugs because I felt too uncomfortable. I believe [REDACTED] was sexually aroused by these hugs.
- 3) (C) During an individual counseling session in early November 2009, [REDACTED] whispered in my ear, "When are you going to bed with me?" I told him not to say that and that I loved my husband.
- 4) (C) In approximately January 2010, [REDACTED] told me he needed to start seeing me twice, rather than once, a month for individual counseling, which I did based upon his advice. At the end of our individual counseling session in early January 2010, [REDACTED] hugged me and then grabbed my behind. I pushed him away and told him to "stop." he said that someone should "take care of" me. I told him that I had someone to take care of me, my husband.
- 5) (C) During an individual counseling session in the summer of 2010, [REDACTED] sat next to me on the couch and hugged me. He began rubbing my leg. He told me I was beautiful and said that "everything could be better if you come home with me." I became very upset and uncomfortable and feared that he was going to kiss me, so I walked out of the session.
- 6) In approximately August 2010, I told [REDACTED] that I wanted to go back to only one individual counseling session per month. During an individual counseling session in September 2010, [REDACTED] began telling me about how "great" he was in bed and how many women he had slept with. I tried to change the subject. [REDACTED] then sat next to me on the couch, put his hand between my thighs, and said he could please me any way I wanted. I got very upset. I slapped him and told him that I did not want to have sex with him.
- 7) (C) After the session in September 2010, I told stopped seeing [REDACTED] for individual counseling, although I did continue seeing him for joint marital counseling session with my husband. I did not tell my husband about [REDACTED] sexual harassment because I was afraid my husband would become very jealous and angry.

- 8) (C) At a marital counseling session in mid-December 2010, I mentioned an incident in which my husband had become jealous of another man looking at me. ██████ said, "Don't worry, I've tried several times to seduce your wife and she wouldn't have anything to do with me." After this session, I told my husband about ██████ harassment of me over the prior year. This was the last time that either my husband or I saw ██████ for counseling.
- 9) (C) After the December 2010 session, ██████ called me several times to ask whether I was going to press charges against him. On or about 1/23/2011, ██████ sent me a package that included quotes from scripture, as well as a picture ██████ and his wife, which I understood to be his attempt to discourage me from filing charges.
- 10) (C) Thereafter, I filed complaints against ██████ with the Brunswick Police Department and the Maine Board of Licensure in Medicine. His medical license was revoked effective 5/10/2011. I believe that I have been discriminated against in public accommodations by virtue ██████ subjecting me to a hostile environment² based upon my sex, in violations of the Maine Human Rights Act.

Respondent's Answer to Complainant's MHRC Complaint

- 11) (Respondent, hereinafter "R") ██████ graduated from the Medical University of South Carolina in 1981. When he was actively practicing, he specialized in psychiatry. In October 2009, when the Complainant began her treatment with ██████ he advised her that she needed to be seen in his office on a monthly basis.
- 12) (R) The Complainant was treating with him for a variety of issues that affected her physical and mental health, including medication management, and it was important that she maintain consistent appointments. This was a challenge for her due to a number of social and fiscal concerns. In general, when the Complainant missed an appointment, ██████ would call and follow up with her to make sure she was stable and ask her whether she needed to continue treatment.
- 13) (R) However, at no time did any of these phone conversations include content of an inappropriate nature, nor did ██████ ever ask the Complainant if she was going to press charges against him, as there was no inappropriate contact or communications between them. For instance, while ██████ acknowledges that he hugged all of his patients as a gesture of support and comfort, he was not sexually aroused by these hugs, as the Complainant has alleged in her MHRC complaint. Moreover, the hugs did not last 30 seconds and the Complainant never expressed, verbally or otherwise, that she was in any way uncomfortable with the hugs.
- 14) (R) While ██████ also acknowledges that he sent scripture to the Complainant on one occasion, this was consistent with his standard practice of incorporating religion into treatment when his patients expressed a desire for him to do so. ██████ also has a master's degree in Divinity and although he did not specifically market himself as a psychiatrist who incorporated spirituality into treatment, many of his patients found that they benefitted from his background and education.
- 15) (R) It is true that ██████ recommended that that Complainant increase her treatment sessions during a period of time when her mental status worsened and she required more frequent treatments. This recommendation was based purely upon ██████ professional judgment that bi-weekly treatments

² The original charge alleged a "hostile *work* environment." It was later amended to "hostile environment."

were in the Complainant's best interests. It was not based, in any way, on personal or inappropriate motivations. Over time, Complainant improved and was able to return to monthly treatment sessions.

- 16) (R) The remaining allegations in Complainant's MHRC charge are simply untrue. [REDACTED] did not sit next to her on the couch. Although he used to sit next to some of his patients, he stopped doing so after he discovered that some patients preferred more physical space. [REDACTED] never touched Complainant inappropriately nor did he make any of the inappropriate statements alleged in the MHRC complaint.
- 17) (R) In addition, as discussed below, the Complainant's allegations do not constitute a charge of discrimination. She contends that [REDACTED] violated personal and professional boundaries in the context of their physician-patient relationship. This is not a "denial of public accommodation" based upon the Complainant's sex. [REDACTED] did not refuse to provide her with treatment and counseling, which the Complainant acknowledges. Her allegation is that his conduct while providing treatment was negligent and violated the standard of care. These claims belong before Maine's Mandatory Pre-litigation Malpractice Screening Panel and the Board of Licensure in Medicine, not the MHRC.
- 18) (R) When the Complainant stopped treating with [REDACTED] there were no indications that she stopped treatment because she was uncomfortable or dissatisfied with the care that had been provided. In fact, she was stable and had been talking about moving away from the area. [REDACTED] was under the impression that she had decided to do so and that she had come to the conclusion that she no longer required treatment. [REDACTED] was therefore surprised when the Complainant filed her MHRC complaint as there had never been any notice that she was dissatisfied with the treatment that she had received.
- 19) (R) Notably, two months after the Complainant stopped treating with [REDACTED] the Maine Board of Licensure publicized discipline against his license. It is Respondent's position that the Consent Agreement [in MHRC file] that the Complainant attached to her MHRC complaint was inappropriately submitted as evidence as it is irrelevant to her charge of discrimination. The patients who brought the complaints that are addressed in the Consent Agreement did not allege discrimination. They raised their allegations of unprofessional conduct to the Maine Board of Licensure, which was an appropriate forum for their concerns. Because, however, the Complainant had chosen to refer to the revocation of [REDACTED] license and has attached the Consent Agreement to her complaint, it is appropriate to note the striking similarity between the allegations she makes in her complaint and the allegations that became public record shortly before she filed her complaint.
- 20) (R) In sum, the allegations made by the Complainant are untrue. However, even if they were true, they do not constitute evidence of discrimination. [REDACTED] never denied the Complainant access to a public accommodation on the basis of her sex. Further disagreement with the Complainant's specific allegations include that she alleged that returned to one individual session per month in August 2011, while this actually occurred at the end of May 2010. In October and November 2010 was seen twice a month and was then seen on a monthly basis between December 2010 and February 2011, when she stopped treatment. While [REDACTED] does admit to sending the Complainant some passages of scripture, he does not recall ever sending the Complainant a picture of him and his wife. He denies ever contacting the Complainant in an attempt to dissuade her from filing charges. [REDACTED] has no knowledge of the Complainant filing any complaints about him with either the Maine Board of Licensure or the Brunswick Police Department. He was never contacted by the police and if the Complainant did file a complaint with the Board of Licensure, it was after he already surrendered his license in May 2011.

Complainant's Reply

- 21) (C) While Respondent admits that he hugged the Complainant, he claims that he hugged all of his patients and that he did not hug the Complainant for 30 seconds. [REDACTED] also claims that the Complainant never expressed verbally that she was uncomfortable or that he became sexually aroused. Contrary to these contentions, [REDACTED] did hug the Complainant frequently for 30-60 seconds and did become sexually aroused on occasion, and she expressly told him that she felt uncomfortable with his conduct. Complainant had to break off hugs and when she did so, on several occasions, [REDACTED] hand would graze across her buttocks. Her discomfort was heightened by the fact that on numerous occasions [REDACTED] would tell her how beautiful she was.
- 22) (C) The Complainant concedes that she did miss appointments from time to time and that [REDACTED] would call her. However, she did not miss appointments because of "social or fiscal concerns," but rather because [REDACTED] behavior. Before the Complainant began seeing [REDACTED] on her own, while she was still seeing him with her husband, [REDACTED] asked her to meet him at a time when he knew that her husband was at work.
- 23) (C) While the Respondent contends that his suggestion in or about January 2010 for the Complainant to increase her sessions to twice per month and to see him individually was motivated by her therapeutic needs, the Complainant believes it was in fact motivated by [REDACTED] sexual desires. As detailed in her MHRC complaint, once the Complainant began seeing [REDACTED] outside of the company of her husband, on numerous occasions [REDACTED] physically made advances toward her.
- 24) (C) Contrary to [REDACTED] claim that Complainant's return back to only once a month sessions (in August 2010) was because her mental status had improved, it was Complainant who determined she would only see him once a month as part of a joint sessions with her husband, because [REDACTED] repeated advances. Thereafter, she refused to see [REDACTED] outside of the presence of her husband. Later, in December 2010, during a counseling session with her husband, [REDACTED] made a comment about him trying several times to seduce the Complainant but that she would not have anything to do with him. After that session, the Complainant and her husband stopped seeing [REDACTED] altogether.
- 25) (C) When the Complainant and her husband ended treatment, they had no plans to move away from the area and Complainant never said she was satisfied with the treatment. That [REDACTED] was aware of her dissatisfaction is evidenced by the fact that he contacted her in January 2011 to inquire if she was going to file a complaint of sexual harassment against him. Subsequently, on 1/23/2011, [REDACTED] sent the Complainant a package that included a picture of him and his wife together along with quotes from scripture.
- 26) (C) Lastly, Respondent [REDACTED] suggests that the Complainant contacted the Maine Board of Licensure only after the Board publicized discipline it had taken against [REDACTED]. In fact, the Complainant contacted the Board *before* any publicity about him, and to her knowledge at the time she was not aware anyone else had done so. When she asked the Board if there were any other outstanding complaints against [REDACTED] the Board did not apprise her of any.

Investigator

- 27) As part of the investigation, both parties were requested to participate in a Fact Finding Conference, primarily to assess the credibility of the Complainant and the Respondent. While the Complainant indicated that she was willing to participate in a conference, the Respondent declined, through legal

counsel. ██████████ counsel indicated that they still believed that the MHRC claim was preempted by the Maine Health Security Act, and that they would rely upon their previously submitted written submissions, rather than participate in a Fact Finding Conference.

V. Analysis and Conclusions

- 1) The Maine Human Rights Act requires the Commission in this investigation to “determine whether there are reasonable grounds to believe that unlawful discrimination has occurred.” 5 M.R.S. § 4612(1)(B).
- 2) The Commission interprets this standard to mean that there is at least an even chance of Complainant prevailing in a civil action. More particularly, “reasonable grounds” exists when there is enough admissible evidence, or there is reason to believe that formal litigation discovery will lead to enough admissible evidence, so that there is at least an even chance of Complainant proving in court that unlawful discrimination occurred. Complainant must prove unlawful discrimination in a civil action by a “fair preponderance of the evidence.” 5 M.R.S. § 4631.
- 3) The Maine Human Rights Act makes it unlawful:

For any public accommodation or any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation to directly or indirectly refuse, discriminate against or in any manner withhold from or deny the full and equal enjoyment to any person, on account of...sex, any of the accommodations, advantages, facilities, goods, services or privileges of public accommodation, or in any manner discriminate against any person in the price, terms or conditions upon which access to accommodation, advantages, facilities, goods, services and privileges may depend.

5 M.R.S. § 4592(1). A “professional office of a health care provider” is specifically identified as a place of public accommodation in the MHRA. 5 M.R.S. § 4553(8)(F).

- 4) The MHRA does not explicitly address claims of harassment by a place of public accommodation. In the employment context, the MHRA, following federal law, has been interpreted to include claims involving a “hostile environment.” See, e.g., *Bowen v. Department of Human Services*, 606 A.2d 1051, 1053 (Me. 1992). Similarly, “hostile environment” claims have been extended to Title III of the Americans with Disabilities Act, which has similar wording to the public accommodations provision in the MHRA. See *Guckenberger v. Boston Univ.*, 957 F. Supp. 306, 314 (D. Mass. 1997). Compare 5 M.R.S. § 4592(1) with 42 U.S.C. § 12182(a). Accordingly, a hostile public accommodations environment claim will be recognized here, and the standards from the employment context will be adopted. Cf. *Guckenberger*, 957 F. Supp. at 314.³ The MHRC has previously recognized a cause of action for sexual harassment in a place of public accommodation in a prior MHRC case.⁴

³ Because this language is similar to that in Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a(a), case law interpreting Title II is helpful in analyzing this claim.

⁴ *Zinke v. Eastern Frontier Educational Foundation*, PA07-0688 (2009).

- 5) In order to establish a prima-facie case of public accommodations discrimination, Complainant may show that she “(1) is a member of a protected class, (2) attempted to contract for services and afford himself or herself of the full benefits and enjoyment of a public accommodation, (3) was denied the full benefits or enjoyment of a public accommodation, and (4) such services were available to similarly situated persons outside her protected class who received full benefits or were treated better.” *Jackson v. Waffle House, Inc.*, 413 F.Supp.2d 1338, 1361 (N.D.Ga. 2006) (Title II). With respect to the fourth element, “similarly situated persons” need not be identical, “but there should be a reasonably close resemblance of facts and circumstances. What is key is that they be similar in significant respects.” *Id.* at 1358 (citing *Lizardo v. Denny's Inc.*, 270 F.3d 94, 101 (2nd Cir. 2001)).
- 6) Once Complainant has established a prima-facie case, Respondent must (to avoid liability) articulate a legitimate, nondiscriminatory reason for the adverse treatment. *Id.* at 1355-56. *See also Doyle v. Department of Human Services*, 2003 ME 61, ¶ 15, 824 A.2d 48, 54; *Maine Human Rights Comm'n v. City of Auburn*, 408 A.2d 1253, 1262 (Me. 1979). After Respondent has articulated a nondiscriminatory reason, Complainant must (to prevail) demonstrate that the nondiscriminatory reason is pretextual or irrelevant and that unlawful discrimination brought about the adverse action. *See id.* Complainant's burden may be met either by the strength of Complainant's evidence of unlawful discriminatory motive or by proof that Respondent's proffered reason should be rejected. *See Cookson v. Brewer School Department*, 2009 ME 57, ¶ 16; *City of Auburn*, 408 A.2d at 1262, 1267-68. Thus, Complainant can meet her overall burden at this stage by showing that (1) the circumstances underlying the articulated reason are untrue, or (2) even if true, those circumstances were not the actual cause of the decision. *Cookson v. Brewer School Department*, 2009 ME 57, ¶ 16.
- 7) In order to prevail, Complainant must show that she would not have suffered the adverse treatment but for membership in the protected class, although protected-class status need not be the only reason for the decision. *See City of Auburn*, 408 A.2d at 1268.
- 8) Hostile environment claims involve repeated or intense harassment sufficiently severe or pervasive to create an abusive [public accommodations] environment.” *Doyle v. Dep't of Human Servs.*, 2003 ME 61, ¶ 23, 824 A.2d 48, 57. In determining whether an actionable hostile public accommodations environment claim exists, it is necessary to view “all the circumstances, including the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an [individual's enjoyment of a place of public accommodation].” *Id.* (citations omitted). It is not necessary that the inappropriate conduct occur more than once so long as it is severe enough to cause the [place of public accommodations] to become hostile or abusive. *Id.*; *Nadeau v. Rainbow Rugs*, 675 A.2d 973, 976 (Me. 1996). “The standard requires an objectively hostile or abusive environment—one that a reasonable person would find hostile or abusive—as well as the victim's subjective perception that the environment is abusive.” *Nadeau*, 675 A.2d at 976.
- 9) Here, if sexual harassment occurred, Respondent is liable for that harassment by virtue of the fact that Respondent [REDACTED] was the owner and sole proprietor of his medical practice and business. *See E.E.O.C. v. Sunfire Glass, Inc.*, 2009 WL 976495, *10 (D.Ariz. 2009) (owner and president of company was its “alter ego,” creating strict liability against corporate defendant).
- 10) In this case, Complainant who was a patient of Respondent's, alleges that she was subjected to a hostile environment (sexual comments and unwelcome touching) in public accommodations due to her sex.

- 11) The Respondent denies any discrimination occurred based upon the Complainant's sex and/or that he touched Complainant inappropriately or made any of the alleged inappropriate comments. Respondent also contended that, even if these allegations were true, the MHRA does not provide an action for hostile environment in public accommodations and/or that the claim is barred because the misconduct alleged falls under the exclusive provisions of the Maine Health Security Act.
- 12) As the Respondent's request for dismissal based the exclusivity of the Maine Health Security Act has already been denied by the MHRC, the sole remaining issue is whether the Complainant has met her burden of showing at least an even chance of prevailing, the Maine Human Rights Act's "reasonable grounds" standard, that she was subjected to unlawful harassment based upon her sex in a place of public accommodation. In arriving at a recommendation, the following facts are noted:
- a) Complainant did establish a prima-facie case of sexual harassment in public accommodation, as she alleged that she was a member of a protected class (female), attempted to afford herself of the full benefits and enjoyment of a public accommodation, was denied the full benefits or enjoyment of a public accommodation, and that such services were available to similarly situated persons outside her protected class who received full benefits or were treated better (in this case, there were no male patients [REDACTED] who filed complaints about him).
 - b) Although [REDACTED] denies the majority of the allegations raised by the Complainant in her MHRC complaint, if these allegations are true, the comments and conduct complained of would almost certainly be severe and/or pervasive enough to rise to the level of hostile environment, regardless of whether it occurred in a place of public accommodation or a place of employment.
 - c) Respondent's legitimate non-discriminatory reason for the conduct at issue here is that Complainant simply misunderstood. It is clear that both the Complainant and the Respondent cannot both be telling the truth on certain issues. He either asked the Complainant when she was going to bed with him or he did not. [REDACTED] either did grabbed the Complainant's buttocks, rubbed her leg, and put his hand between her thighs (each on a separate occasion), or he did not. These are not so-called "gray areas" where one might assume that both parties are generally truthful and that the same event or comment was reasonably perceived differently due to each party's unique perspective of the situation. Because of the "he said, she said" nature of these critical facts, the parties' credibility is crucial.
 - d) It is notable that while the Complainant was willing to participate in a Fact Finding Conference in order to have her credibility assessed by this investigator (and opposing counsel), the Respondent was not willing to do so. This suggests that the Respondent was not convinced that he would likely prevail in a credibility contest between him and the Complainant. While the Respondent may possibly ultimately prevail on the issue of whether the Maine Health Security Act precludes filing under the Maine Human Rights Act, and/or whether the Law Court expressly recognizes a cause of action under the MHRA for sexual harassment in a place of public accommodation, these issues would have in no way impaired the Respondent's ability to answer questions at a Fact Finding Conference in order to have his credibility weighed against that of the Complainant. If Respondent had truly not engaged in any of the conduct alleged, one would assume that he would have been ready, willing and able to convince an investigator of this.
 - e) The Respondent has also provided no explanation as to how the Complainant would have received a picture [REDACTED] and his wife if he never sent it, along with the quotes from scripture, which he

admits he sent. It is the Complainant's assertion and belief that [REDACTED] mailed the picture and scripture passages to hopefully dissuade the Complainant from filing a complaint against him with law enforcement, the MHRC, Board of Licensure, etc. Given that both of the section of scripture quoted (Ecclesiastes 9:9 and [REDACTED] 19:6) refer to living "joyfully with the wife" and a section commonly used in marriage ceremonies ("What therefore God hath joined together, let no man put asunder"), respectively, it is certainly possible that [REDACTED] was trying to convince the Complainant not to file a complaint because of the deleterious effect it would likely have upon the Respondent's marriage, especially since at that time it is possible that neither [REDACTED] nor his wife was aware of the myriad other complaints of sexual impropriety later heard by the Licensing Board.

- f) Respondent alleges that the Complainant's motivation for filing her MHRC complaint is suspect, and suggests that she decided to do so only after it became public knowledge that other patients had already filed complaints with the Board of Licensure alleging multiple instances of improper sexual comments and conduct with prior patients. Since the Board publicly suspended [REDACTED] license in April 2011 and later revoked his license as of 5/10/2011, in addition to contemporaneous newspaper coverage, it is certainly possible that the Complainant was aware of these proceedings prior to filing her MHRC charge on 6/17/2011. Given her willingness to attend a Fact Finding Conference to test credibility, and Respondent's unwillingness to do that, Respondent's allegation here does not help his cause.
- g) Respondent also infers that the Complainant may have fabricated her complaint due to the "striking similarity" between her MHRC complaint and the complaints investigated by Board of Licensure. It is true that certain specific allegations found in the Complainant MHRC complaint, such as unwelcome hugging, that he had made inappropriate comments and gestures of a sexual nature, that he would be a better partner for them than their husband, and that he put his arm around a female patient while sitting on his office couch, are all also found in one or more of the prior complaints. Additionally, while these similarities may suggest fabrication, they may also simply reflect that the Respondent engaged in similar patterns of misconduct with prior patients as he is alleged to have done with the Complainant. Further, since one of the prior complaints involved an allegation of having sexual intercourse with one of his current patients⁶, one would assume that if the Complainant was intent on fabricating a claim she could have far more serious offenses than lingering hugs, placing his hand on the Complainant's legs, and flirtatious sexual overtures.
- h) Given that the Complainant need only establish a 50/50 likelihood or prevailing in a civil action, and that she was willing to participate and answer questions at a Fact Finding Conference to assess her credibility, it is found that she has established "reasonable grounds" that she was subjected to sexual harassment in a place of public accommodation under the MHRA. The Complainant is not required to prove that she was denied any and all treatment in order to establish that she was denied equal access to a public accommodation, only that she was "denied the full benefits or enjoyment of a public accommodation." The fact that the Complainant may have received adequate or even exceptional psychiatric treatment does not alter the fact that she was entitled to receive such services without being subjected to unwelcome inappropriate touching and/or sexual comments, otherwise she did not receive the "full benefits or enjoyment" of that public accommodation.

⁶ [REDACTED] admitted to consensual intercourse but claimed that it was after the patient was discharged from therapy.


VI. Recommendations

Based upon the information contained herein, the following recommendation is made to the Maine Human Rights Commission:

1. There are **REASONABLE GROUNDS** to believe that Complainant [REDACTED] was subjected to unlawful sex discrimination in public accommodations due to her sex by Respondent [REDACTED] f/k/a [REDACTED] [REDACTED] and [REDACTED]
2. That the conciliation of the charge should be attempted in keeping with 5 M.R.S. § 4612.



Amy M. Sneirson
Executive Director



Robert D. Beauchesne
MHRC Investigator

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MT/SC 5-0